LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7896
BILL NUMBER: SB 529

NOTE PREPARED: Feb 25, 2005
BILL AMENDED: Feb 24, 2005

SUBJECT: Department of Child Services.

FIRST AUTHOR: Sen. Lawson C
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires counties to levy an amount for the Family and Children's Fund and the Children's Psychiatric Residential Treatment Services Fund in the amount certified by the Department of Child Services.

The bill extends the expiration of the Office of the Secretary of Family and Social Services and its divisions to January 1, 2008.

It establishes the Department of Child Services and removes: (1) child protection service duties; (2) child support services under Title IV-D; (3) adoption services; (4) foster care services; (5) independent living services; (6) child services; (7) the regulation of residential child care establishments; (8) children in need of services; (9) children's psychiatric residential treatment services; and (10) family services; to the Department.

It also adds references to the state central collection unit concerning income withholding by employers for child support payments and allows the Department of Child Services to assess a civil penalty of $25 per obligor per pay period against certain income payors that do not make the payment through electronic funds transfer.

The bill renames the Division of Family and Children to the Division of Family Resources and renames the Division's bureaus.

It authorizes the state to procure child services and other related services on behalf of a county. It also establishes the Select Committee on the Reorganization of Child Services and assigns committee duties.

The bill repeals: (1) statutes that require county Offices of Family and Children to establish a local child protection service; and (2) the designation of the Child Support Bureau as the state's designated Title IV-D agency.

Effective Date: (Amended) Upon passage; July 1, 2005; July 1, 2006.

Summary of Net State Impact: (Revised) This bill:

(1) Creates the Department of Child Services (DCS) and removes child protection service duties from the county offices of the Division of Family and Children (DFC) and removes the Title IV-D program from the Child Support Bureau.

(2) Renames the DFC as the Division of Family Resources (DFR) and transfers the powers, duties, and functions of DFC to DFR.

(3) Abolishes the maximum permissible levies for the county Family and Children's Fund and the county Children's Psychiatric Residential Treatment Services Fund (CPRTS). The amount of property tax levies that the county imposes in excess of the maximum levy (estimated at $40 M in CY 2006) does not qualify for state credits under current law, but would qualify for the credits under this provision. The state's additional expense for CY 2006 is estimated at $9.1 M.

(4) Reauthorizes the administrative structure of the Family and Social Services Administration (FSSA) until January 1, 2008.

(5) Requires the centralization of the collection of child support payments in the IV-D program. The DFC reports that this action is required to avoid penalties from the federal government. Penalties could include $25 M in state child support incentive money and $250 M in TANF funds. The Child Support Bureau reports that it would need an additional 18 to 20 central office staff to process the increase in payments. Currently, county clerks receive a portion of the state's income-withholding child support orders. County clerks submit a form through FSSA to the federal government for reimbursement of 66% of administrative costs for collection of child support payments. Counties fund the remaining 44%. This bill would result in counties experiencing a reduction in the amount of revenue received from the federal government and a decrease in expenditures paid. Any increases or decreases in revenues or expenditures are unknown and will vary by county.

(6) Requires that an employer that employs more than 50 employees and that is also obligated to withhold child support payments from more than one obligor is required to remit those payments through the use of electronic funds transfer. DCS is required to assess a civil penalty of $25 per obligor for each payroll period that this provision is not met. The amount of the civil penalty assessed and collected would be dependent upon individual circumstances.

(7) Requires each county to determine, between January 1 and March 31, the amount of excess funds in the CPRTS fund. If a county has a debt for juvenile per diem, this provision would require the county to send the lesser of (1) the excess balance or (2) the actual debt to the state within 45 days of the excess balance determination. According to the State Budget Agency, as of January 19, 2005, 34 counties had outstanding balances totaling $86 M.

Explanation of State Expenditures: (Revised) *Summary:* This bill creates the Department of Child Services

(DCS) and removes child protection service duties from the county offices of the Division of Family and Children (DFC) and removes the Title IV-D program from the Child Support Bureau. The establishment of a DCS and the statutory transfer of various functions and responsibilities of the Department will not necessarily represent a fiscal impact to the state. Any costs that might be incurred from a physical relocation of offices and any expenditures that could be reduced because of operational efficiencies will depend upon administrative action.

Background Information on the Department of Child Services: The Governor is to appoint a Director of the DCS. The Director is entitled to compensation set by the State Budget Agency. The Director shall determine the best manner of organizing the Department.

The bill repeals current statute which created a (1) Youth Development Bureau, (2) Bureau of Child Care Services, (3) Bureau of Residential Services, (4) Bureau of Family Resources, (5) Food Stamp Bureau, and (6) Child Support Bureau. The bill renames the Bureau of Family Independence as the Bureau of Child Development, and the Family Protection Bureau as the Bureau of Economic Independence.

The Department is responsible for the following: (1) child protection service duties; (2) child support services under Title IV-D; (3) adoption services; (4) foster care services; (5) independent living services; (6) child services; (7) the regulation of residential child care establishments; (8) Children in Need of Services (CHINS); (9) children's psychiatric residential treatment services; and (10) family services.

The bill allows DCS to adopt rules as necessary to carry out the Department's duties.

The bill transfers all employees of local, joint-county, or multiple-county child protection services to DCS. It requires the state to recognize any service an employee provided before the effective date of this bill for calculation of benefits or retention points. FSSA currently employs approximately 800 child protective services workers.

The bill authorizes the state to procure child services and other related services on behalf of a county.

The bill establishes the Select Committee on the Reorganization of Child Services and assigns Committee duties.

Background Information on the Renaming of the Division of Family and Children: The bill renames DFC the Division of Family Resources (DFR) and transfers the powers, duties, and functions of DFC to DFR. The bill requires DFR to amend rules adopted by DFC to reflect the name change. The bill also requires the Legislative Services Agency to prepare legislation for introduction in the 2006 regular session of the General Assembly making appropriate changes in statutes that are required to reflect the name change. These actions are administrative in nature and should be accomplished by both agencies within the existing level of resources.

Property Tax Levies: The state pays a 20% property tax replacement credit (PTRC) on the amount of the county family and children's fund and the county children's psychiatric residential treatment services (CPRTS) fund levies that are within the maximum levy limit and that are attributable to property other than business personal property. Likewise, the state pays a 20% homestead credit on the net levies (after PTRC) that are within the limit and attributable to homesteads.

Under this provision, the maximum permissible levies would be abolished for these two funds. The amount of property tax levies that the county imposes in excess of the maximum levy (estimated at $40 M in CY 2006) does not qualify for state credits under current law, but would qualify for the credits under this provision. The state's additional expense for CY 2006 is estimated at $9.1 M. The state would have additional expenses each year. However, the amount would depend on levies set by the DCS under this provision as compared to the maximum levies under current law.

PTRC and homestead credits are paid from the Property Tax Replacement Fund (PTRF). These credits are paid from the state General Fund if balances are not available in the PTRF.

Reauthorization of FSSA: This bill also reauthorizes the administrative structure of FSSA until January 1, 2008. The fiscal impact of allowing the legislative authorization for FSSA to expire would most likely be related to the termination of rule-making authority that is vested in the entities that would sunset.

Background Information on the Reauthorization of FSSA: This bill extends the expiration date of the administrative structure of FSSA to January 1, 2008. (Current law provides for the expiration of the administrative structure on January 1, 2006.) FSSA administrative offices affected are:

(1) The Office of the Secretary of Family and Social Services.
(2) The Office of Medicaid Policy and Planning.

The bill also extends to January 1, 2008, the expiration date of a statute that governs procedures of FSSA advisory councils and the expiration date of statutes that relate to certain powers of the directors of the following divisions:

(1) Disability, Aging, and Rehabilitative Services.
(2) Family and Children.
(3) Mental Health and Addiction.

This bill will continue the administrative structure of FSSA as it currently exists, although certain program functions and responsibilities are transferred by the bill from DFC to the newly established DCS. Depending upon the actions of the administration, failure to extend the expiration date, in practice, would not necessarily have an immediate fiscal impact. Upon its statutory expiration on July 1, 1999, FSSA was extended by the Governor's executive order. In lieu of extending the expiration date or a continuation of the executive order, if the positions were able to be reallocated under the existing appropriations, any potential fiscal impact from the termination of these entities would more likely arise from the loss of rule-making authority vested in these positions by statute.

State Central Collection Unit: The bill will require the centralization of the collection of child support payments in the IV-D program. DFC reports that this action is required to avoid penalties from the federal government. Penalties could include $25 M in state child support incentive money and $250 M in TANF funds. The bill will require child support withholding orders to require that payments be remitted to the State Central Collection Unit rather than county clerks unless they are non-income withholding payments. In FFY 2004, the state collected approximately $25 M per month in child support payments through its State Central Collection Unit. It collected an additional $25 M per month in income-withholding orders, and $18 M per month in non-income withholding orders through county clerk offices. Thus, the state would be collecting an additional $25 M monthly through its State Central Collection Unit. The Child Support Bureau reports that it would need an additional 18 to 20 central office staff to process the increase in payments.

Some of the funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of January 6, 2005, the Child Support Bureau had 10 vacancies, including four PAT 2, two COMOT 3, and four COMOT 4 positions. Actual increases in expenditures for staff are unknown and are dependent on administrative and legislative action.

The bill will also require that employers that employ more than 50 employees and that also withhold child support for more than one obligor must make remittance to the State Central Collection Unit by electronic funds transfer. The Department reports that this provision should speed the payment of child support to the children for whom it is received as well as allowing for administrative efficiencies. (See also the *Explanation of State Revenue*)

Explanation of State Revenues: (Revised) The bill requires that an employer that employs more than 50 employees and that is also obligated to withhold child support payments from more than one obligor is required to remit those payments through the use of electronic funds transfer. The Department is required to assess a civil penalty of $25 per obligor for each payroll period that this provision is not met. The penalty is to be deposited in the General Fund. The amount of the civil penalty assessed and collected would be dependent upon individual circumstances.

Summary of Net Local Impact: *See Summary of State Local Impact.*

Explanation of Local Expenditures: (Revised) The Indiana County Clerks Association reports that shifting all income-withholding orders from the county clerk offices to the State Central Collection Unit would not result in a reduction in the number of staff employed across the state to receive child support payments.

However, county clerks currently submit a form through FSSA to the federal government for reimbursement of 66% of administrative costs for collection of child support payments. Counties fund the remaining 44%. This bill would result in counties experiencing a reduction in the amount of revenue received from the federal government and a decrease in expenditures paid. Any increases or decreases in revenues or expenditures are unknown and will vary by county.

Explanation of Local Revenues: (Revised) *Child Support:* The Department reports that federal incentive payments in the amount of $25 M for child support enforcement activities conducted by the counties are in jeopardy if child support collection is not centralized.

Property Tax Levies: Beginning with taxes paid in 2004, maximum permissible levies for civil taxing units and school transportation funds have been calculated by multiplying the previous year's actual controlled levy by the six-year average increase in Indiana nonfarm personal income. The annual increase is limited to 6%, although a taxing unit may appeal to the state's Local Government Property Tax Control Board for a larger increase in the maximum levy if the unit's AV growth is 3% greater than the statewide average growth in AV. This maximum levy growth formula also applies to the county Family and Children's (F&C) Fund and the county children's psychiatric residential treatment services (CPRTS) fund.

The following summaries apply to both the F&C and CPRTS funds.

Under current law:

1. The county director, with the advice of the juvenile court, compiles and adopts the child services budget and *recommends* a fund property tax levy to the DFC. The budget and a tax levy recommended by DFC are then submitted to the county fiscal body.

2. The county fiscal body is required to make appropriations based on the submitted budget and must levy a tax that will produce the appropriated money.

3. The tax levy is subject to the maximum permissible levy.

4. The director may appeal to the DFC for the right to borrow money to fund child services, children's psychiatric residential treatment services, and other welfare services. A resolution adopted by DFC either supporting or rejecting the loan is forwarded to the county. The county fiscal body then decides whether or not to loan the money to the county office. If the county votes to loan the money to the county office, then the county auditor borrows the money from a financial institution.

5. A county may increase its maximum levy for the F&C or CPRTS fund if the county believes the increase is necessary to pay obligations incurred by the county for CHINS and delinquent children in the year ahead. (This is known as an "excessive levy).

Under this bill:

1. DCS would, with the advice of the juvenile court and after consulting with DFR, compile and adopt the child services budget and would *establish* the tax levy.

2. The county would be required to make appropriations and adopt the tax levy that is established by DCS.

3. The levy would no longer be subject to a maximum permissible levy.

4. DCS would be able to *require* the county to borrow money to fund the F&C or CPRTS fund. The county would be required to vote to allow a loan to be made and the county auditor would be required to borrow the money from a financial institution.

5. Counties would have no need for excessive levies.

Overall Effect on Property Tax Levies: Counties may currently increase their levies or borrow money (to be repaid with a property tax levy) to pay the cost of children's services. Removing the maximum levy limitation for the F&C and CPRTS funds would not necessarily result in higher property tax levies. In fact, the levy could be reduced to some extent (as they relate to interest payments) for a county that under current law would have to borrow money. Over time, the property tax levy would probably not be any higher under this provision than it is under current law, but could be lower.

The DCS currently estimates that 41 counties may need excessive levies in the F&C fund totaling about $40 M in CY 2006 under current law.

Juvenile Maintenance Debt: Between January 1 and March 31, each county must determine the amount of excess funds in the CPRTS fund. Under current law, if the cash balance in the CPRTS fund exceeds one-half of the annual cost to provide services, the excess is transferred to the county general fund to pay for part of the care and maintenance of juvenile offender care and maintenance.

If a county has a debt for juvenile per diem, this provision would require the county to send the lesser of (1) the excess balance or (2) the actual debt to the state within 45 days of the excess balance determination. If the county has no debt for juvenile per diem, then the balance would remain in the fund to reduce the following year's levy.

According to the State Budget Agency, as of January 19, 2005, 34 counties had outstanding balances totaling $86 M. The following table lists each of the 34 counties and their balances.

Outstanding County Balances
For County Juvenile Maintenance - 1/19/2005

County	Balance	County	Balance
Allen	$7,845,192	Knox	$268,407
Benton	3,680	Lake	3,403,359
Cass	109,128	Lawrence	244,871
Clark	710,503	Madison	297,662
Clay	30,733	Marion	57,264,202
Clinton	716,552	Miami	667,569
Decatur	26,681	Monroe	92,597
Dekalb	368,691	Montgomery	119,663
Elkhart	1,692,995	Noble	582,238
Fayette	87,773	Porter	2,800,570
Floyd	535,188	Starke	723,821
Grant	1,209,673	Steuben	75,143
Harrison	17,740	St. Joseph	4,399,177
Hendricks	298,819	Tippecanoe	661,685
Jackson	25,027	Vanderburgh	355,536
Jefferson	11,179	Warrick	75,135
Jennings	17,475	**Total**	**$86,042,591**
Johnson	303,927	**# Counties**	**34**

State Agencies Affected: Family and Social Services Administration; Legislative Services Agency; Department of Local Governance Finance.

Local Agencies Affected: Local offices of Family and Children; County Clerks.

Information Sources: Mary Edmonds, FSSA, 232-4758; Daphne Risch, Bureau of Child Support, 232-4922.

Fiscal Analyst: Sarah Brooks, 317-232-9559.